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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/805,760

03/22/2004

Paul Anthony Bristow

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CANTOR COLBURN, LLP
20 Church Street
22nd Floor
Hartford, CT 06103

EXAMINER

HUSON, MONICA ANNE

ART UNIT

PAPER NUMBER

1791

MAIL DATE

DELIVERY MODE

02/11/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/805,760	Applicant(s) BRISTOW ET AL.	
	Examiner Monica A. Huson	Art Unit 1791	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 16 January 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: _____.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Monica A Huson/
 Primary Examiner, Art Unit 1791

Continuation of 11. does NOT place the application in condition for allowance because: although applicant contends that the prior art does not suggest the instant invention, the examiner maintains her rejections.

Applicant contends that Matich does not show heating a substrate to a particular temperature to form a shaped substrate. This is not persuasive because it is maintained that Matich's "flat" substrate that is heated and subsequently vacuum formed is a "shaped" substrate, as "flat" is clearly a shape.

Applicant generally contends that Matich does not show the particularly claimed elements of claim 23, but does not address why Matich (specifically the cited portions for the claimed elements) does not show what the examiner alleges. It is maintained that Matich shows the claimed process of claim 23.

Regarding the "claim 23" listed in the 103 section and its cooling step, it is noted that this is a typographical error. Clearly claim 23 does not require a cooling step, while claim 22 does require a cooling step. Claim 22 is addressed below.

Applicant contends that Matich does not show a temperature sufficient to loft fibers. This is not persuasive because "to loft fibr" is merely an intended use and consequence of the positively-claimed method, not an actual method step.

Applicant contends that there is no reason to combine Matich and Masui. This argument has already been addressed as nonpersuasive in the Final Office Action on page 7.

Applicant contends that Masui does not show claims 4 and 5 because these claims require void percentages of up to about 50 vol%. This is not persuasive because Masui discloses using a substrate having a void content of not less than 50 vol%. It is noted that 50 vol% is a common point between "up to about 50 vol%" and "not less than 50 vol%". Also see the Final Office Action, pages 7-8.

Applicant contends that Masui or Matich do not show a foraminated substrate. This argument has already been addressed as nonpersuasive in the Final Office Action on page 8.

Applicant contends that Matich and Holtrop do not show plug assist vacuum molding. This argument has already been addressed as nonpersuasive in the Final Office Action on page 8.

Applicant contends that the claim is patentable for the same reasons as the previous claims. This argument has already been addressed as nonpersuasive in the Final Office Action on page 8.

Regarding Claim 22, applicant contends that if the cooling step was an intermediate one, it is not clear if the stack would be shaped. This is not persuasive because any stack would implicitly have a shape.